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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,939	12/30/2005	Karl-Heinz Lehmann	66489-082-7	8594
25269 7590 10/18/2007 DYKEMA GOSSETT PLLC FRANKLIN SQUARE, THIRD FLOOR WEST 1300 I STREET, NW WASHINGTON, DC 20005			EXAMINER WERNER, JONATHAN S	
			ART UNIT 3732	PAPER NUMBER
			MAIL DATE 10/18/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,939	<b>Applicant(s)</b> LEHMANN ET AL.	
	<b>Examiner</b> Jonathan Werner	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/20/06.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4,5 and 11-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2,4-5,11-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to Applicant's amendment received 11/20/06.

#### ***Drawings***

2. The drawings were received on 11/20/06. These drawings are accepted.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 5, it is not clear to the Examiner what the difference is between "said instrument holder" and "the associated instrument holder," wherein "the associated instrument holder" further lacks proper antecedent basis. Claim 14 recites the limitation "the type of apparatus required." There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 5, 14-16, 18-22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bierbaum et al. (US 5,332,392) in view of Hanson (US 5,297,961).

Bierbaum discloses a treatment element for the accommodation of dental hand instruments (see Figures 2-3), comprising a base module (6), a first top module (7) which is removably received on the base module, and instrument holders (i.e. 2). The first top module includes a flat receptacle (see Figure 2) and wherein the instrument holder of the top module defines docking bays (2) from which the handpieces and associated hoses hang from beneath the base module (see especially Figure 3).

Though the first top module of Bierbaum is interchangeable, Bierbaum fails to show a second top module that includes swivel arm hose supports and an instrument panel with troughs. Hanson, however, teaches such a treatment element, wherein said element comprises a base module and housing (11/12) and an interchangeable top cover (13), wherein said top cover defines a series of troughs for placement of each instrument (see Figure 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to include such a second top module in order to modify the treatment element so that the practitioner's ease of access to the instruments can be chosen depending on the preferences of the practitioner for the job to be performed. Furthermore, the hoses shown by Hanson extend from connectors (i.e. 30) on the base module for supplying media to the instruments (see Figure 3).

Additionally, the top module of Hanson includes swivel arm hose supports (i.e. 14). The flat receptacle portion of the first top module (7) disclosed by Bierbaum and its

associated instrument holder (2) are separate components as shown in Figures 1-3. Examiner points out that the top member (7) of Bierbaum has a frame member (shown surrounding said top member and overlapping base member 6) and an insert which is designed to accommodate an instrument in the hanging position. Additionally, the use of the swivel arm hose supports as shown by Hanson in Figure 1 help to guide the instrument hoses over the treatment element. Examiner notes the abundant use of functional language by the Applicant throughout the claims, i.e. how the connectors can be used from a position for the attachment of a hanging instrument hose or for the attachment of a hose from in the front of the unit. Such statements of intended use and other functional limitations describing the use of the treatment element do not impose any further structural limitations on the claims distinguishable over the prior art of record, which is capable of being used as intended.

5. Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bierbaum in view of Hanson, as applied to claims 1 and 15 above, and further in view of Doty (US 4,952,146). Bierbaum and Hanson disclose the dental treatment element as previously described, but fail to disclose the top module is equipped with a control panel. Doty, however, teaches a dental treatment element for the accommodation of dental hand instruments which has a top module (16) that comprises a control panel (34). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to include a control panel on the top module of a dental

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treatment element in order to allow the dentist to easily adjust any settings as taught by Doty.

6. Claims 11-13, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bierbaum in view of Hanson, as applied to claims 1 and 15 above, and further in view of Childress (US 4,106,198). As to claim 11, Bierbaum discloses the dental treatment element as previously described, but fails to disclose the use of an instrument removal detector. Childress, however, teaches a control arrangement for a handpiece instrument which includes a detector (Abstract). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to include a detector on the treatment element in order to sense the removal of each handpiece instrument from the console as taught by Childress. In re claim 12, Applicant never positively claimed said detector was installed on the base module, though the detector (24a) disclosed by Childress can be displaced anywhere and as to claim 13, the detector is capable of being used with each top module.

### ***Response to Arguments***

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

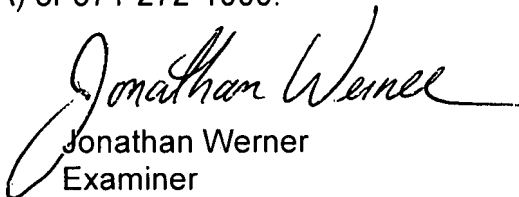
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to included form PTO-892 for all additional pertinent prior art related to dental treatment elements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Werner whose telephone number is (571) 272-2767. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jonathan Werner  
Examiner

10/9/07

  
MELBA N. BUMGARNER  
PRIMARY EXAMINER